COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS & ENERGY

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In re Competitive Market Issues Inquiry)	DTE No. 01-54A
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RESPONSE OF THE MASSACHUSETTS CHAPTER OF THE NATIONAL ASSOCIATION OF INDUSTRIAL AND OFFICE PROPERTIES IN SUPPORT OF ATTORNEY GENERAL'S MOTION FOR RECONSIDERATION

Pursuant to the Hearing Officer's order dated November 6, 2001, the Massachusetts chapter of the National Association of Industrial and Office Properties ("NAIOP") submits the following response in support of the Attorney General's Motion for Reconsideration.

- 1. NAIOP is an advocacy, research and educational organization that represents the interests of companies that are involved with the development, ownership, management and financing of commercial properties. NAIOP has over 500 members in the Commonwealth, representing nearly 280 companies that own or manage over 100 million square feet of office, research-and-development, and industrial space. Founded in 1967, NAIOP's 9,500 national members are involved in the development and management of industrial, office and retail properties throughout the United States and Canada.
- 2. NAIOP agrees with the Attorney General that the Department erroneously granted an exception to its own regulations in ordering the Commonwealth's distribution companies to disclose customer usage information, except when the customer has directed his or her distribution company <u>not</u> to disclose such information. Both the 1997 Electric Industry Restructuring Act and a previously existing statute, M.G.L. c.25, § 5D (trade secrets, confidential, competitively sensitive or other proprietary information), recognize the commercial importance of such data to the customer. The cost

of electricity for a commercial building is competitively sensitive information, and is a critical component

of commercial property values.

3. Usage information historically has been presumed to be confidential. The Department's

order reverses this presumption, and provides an unwarranted subsidy (at the expense of commercial

property owners and others) to retail power suppliers. The Department should reconsider its order,

and not remove the current protections surrounding usage information.

Respectfully submitted,

MASSACHUSETTS CHAPTER OF THE NATIONAL ASSOCIATION OF INDUSTRIAL

AND OFFICE PROPERTIES

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